

**Revised Questions and Answers On TD-ATF-471 (Temporary
Regulations regarding Nonimmigrant Aliens)**

3/7/2002

General Questions

1. Q. May foreign visitors and other nonimmigrant aliens legally in the United States purchase or possess firearms and ammunition while in the United States?

A. Nonimmigrant aliens generally are prohibited from possessing or receiving (purchasing) firearms and ammunition in the United States.

There are exceptions to this general prohibition. The exceptions are as follows:

- (1) nonimmigrant aliens who possess a valid hunting license or permit lawfully issued by a State in the United States;
- (2) nonimmigrant aliens entering the United States to participate in a competitive target shooting event or to display firearms at a sports or hunting trade show sponsored by a national, State, or local firearms trade organization devoted to the competitive use or other sporting use of firearms;
- (3) certain diplomats;
- (4) officials of foreign governments or distinguished foreign visitors so designated by the U.S. State Department;
- (5) foreign law enforcement officers of friendly foreign governments entering the United States on official law enforcement business; and
- (6) persons who have received a waiver from the prohibition from the U.S. Attorney General.

Significantly, even if a nonimmigrant alien falls within one of these exceptions, the nonimmigrant alien CANNOT purchase a firearm from a Federal firearms licensee (FFL) unless he or she (1) has an alien number or admission number from the Immigration and Naturalization Service AND (2) can provide the FFL with documentation showing that he or she has resided in a State within the United States for 90 days prior to the firearms transaction.

2. Q. Typically, who are "nonimmigrant aliens?"

A. In large part, nonimmigrant aliens are persons traveling temporarily in the United States for business or pleasure, persons studying in the United States who maintain a foreign residence abroad, and certain foreign workers. Permanent resident aliens are NOT nonimmigrant aliens. (Permanent resident aliens often are referred to as people with "green cards").

3. Q. How do I obtain a waiver from the Attorney General?

A. You must contact the Department of Justice for information on that procedure. However, in order to even apply for the waiver you must have resided in the United States continuously for at least 180 days prior to submitting your application.

Purchasing Firearms

4. Q. I have a "green card" and have lived in Texas for several years. Am I prohibited from purchasing firearms and ammunition in Texas?

A. As long as you are not otherwise prohibited from purchasing or possessing firearms and ammunition (for example, a felon), Federal law does not prohibit you from purchasing or possessing firearms or ammunition. However, you will need to put your INS-issued alien number or admission number on the Form 4473. Moreover, you must make sure there are no State or local restrictions on such a purchase.

5. Q. I am a nonimmigrant alien. I purchased a firearm in this country in early 1998 after providing the Federal firearms dealer proof that I was in the United States legally and had resided in the State for more than 90 days. I was told that this transaction was legal then. Am I entitled to keep that firearm and any ammunition I have on hand? Is there a "grandfather" clause in the new regulations that would protect me from criminal liability?

A. Since October 21, 1998, when the Gun Control Act was amended to make nonimmigrant aliens a new category of prohibited persons, nonimmigrant aliens generally have not been able to possess firearms and ammunition in the United States. Our regulations simply implement this statutory prohibition. The law does not allow us to create a "grandfather clause" in our regulations. Therefore, unless you obtain a valid State hunting license or permit (or fall within one of the other exceptions), your possession of the firearm and ammunition is NOT legal.

6. Q. I am a nonimmigrant alien who is on a month-long vacation in the United States. I have a hunting license and an INS-issued admission number. Can I legally buy a firearm from a Federal firearms licensee (FFL) in the United States and take possession of it in the United States?

A. No. You cannot legally buy a firearm and take possession in the U.S. from an FFL because you have not resided in a State within the United States for 90 days.

7. Q. I am a nonimmigrant alien. I'm coming to the United States for 2 weeks. I do not have a hunting license or any INS-issued number. Can I buy a firearm from a Federal firearms licensee (FFL) to take back to my home country?

A. The FFL may directly export the firearm to your home country. Under these circumstances, you do not need a hunting license, INS-issued number or 90 days of State residency. An export license must be obtained from the Department of State or, if the firearm is a sporting shotgun, from the Department of Commerce. You may not take possession of the firearm in the United States.

8. Q. I am a nonimmigrant alien who has resided in Idaho for 1 year. I have a valid Montana hunting license. Can I use the Montana license as evidence that I fall within an exception to the nonimmigrant alien prohibition when I go to buy a gun from a dealer in Idaho?

A. Yes. A valid hunting license or permit from any State within the United States satisfies the hunting license exception to the nonimmigrant alien prohibition. The license does not have to be from the State where the nonimmigrant alien is purchasing the firearm. The transaction must comply with State and local laws.

9. Q. I am a nonimmigrant alien who is planning to reside in Florida for 6 months. I do not have an INS alien number or admission number. Do I need such a number if I plan to buy a gun after living in Florida for 90 days? If so, how do I get such a number?

A. All non-U.S. citizens need an INS-issued alien number or admission number to purchase a firearm from a Federal firearms licensee (FFL). The FFL will not complete the sale if you do not have such a number. If you do not already have an INS number, you should ask an INS inspector for an admission number when you enter the United States. These numbers can only be issued at a port of entry, so it is important that you request the number when you enter the United States.

10. Q. I am a nonimmigrant alien and have been residing in Florida for 4 months. I do not have an INS alien number or admission number and did not know to ask for one when I entered the United States. Is there any way I can get an INS number?

A. Yes. You must go to either the Canadian border or Mexican border, leave the United States, and then reenter the United States. Upon reentering the United States, you can ask an INS inspector for an admission number. You do not have to stay in Canada or Mexico for any length of time to do this. You can simply drive over the border, turn around, and reenter at a Customs point of entry. Please note, however, that it will take several weeks for the admission number to be entered into the INS system. You likely will receive a "denied" response from NICS or the State POC if you try to purchase a firearm before the number is entered into the INS system.

11. Q. Why did you change the Form 4473?

A. In 1998, the Gun Control Act was amended to include nonimmigrant aliens as a new category of persons prohibited from possessing or receiving firearms or ammunition. The form had to be changed to address the nonimmigrant alien prohibition and its exceptions.

12. Q. Question 13 on the new Form 4473 states "If you are a nonimmigrant alien, do you fall within any of the exceptions set forth in Important Notice 6, Exception 2?" It then has three boxes labeled "Yes", "No", and "Not applicable." I don't understand what the "Not applicable" box is for.

A. Any person who is NOT a nonimmigrant alien should check the "Not applicable" box. We recognize this is a bit confusing since Question 13 begins "If you are a nonimmigrant alien." This will be clarified the next time the form is redone.

13. Q. I'm a nonimmigrant alien. I have a State concealed weapons permit. Does this exempt me from the prohibition on nonimmigrant aliens possessing or receiving firearms and ammunition?

A. No. A State concealed weapons license/permit does NOT satisfy the hunting license or permit exception to the prohibition.

Bringing Firearms/Ammunition into U.S.

14. Q. The notice (TD-ATF-471) states that the temporary regulations give the Secretary of the Treasury or his delegate (the ATF Director) the authority to require nonresidents bringing firearms and ammunition into the United States for hunting or other lawful sporting purposes to first obtain an approved import permit. Does that mean that ATF will exercise that authority, and that all such importations will now require an ATF-approved permit?

A. All nonimmigrant aliens (with a few exceptions which are listed below) must obtain an import permit from ATF to import firearms and ammunition into the United States. Please note this requirement applies to all nonimmigrant aliens, not all nonresidents. The exceptions to this permit requirement are for certain foreign military personnel, official representatives of foreign governments, distinguished foreign visitors, and foreign law enforcement officers of friendly foreign governments.

15. Q. What type of form do I, as a nonimmigrant alien, need to file with ATF to import a firearm or ammunition?

A. You need to file ATF Form 6 Part I (Application and Permit for Importation of Firearms, Ammunition and Implements of War). The Form is both the application and, once approved, the permit you present to the U.S. Customs Service when you enter the United States. The Form 6 can be obtained by calling ATF's Firearms and Explosives Imports Branch at 202-927-8320. It also can be downloaded from ATF's Web site(www.atf.treas.gov).

16. Q. Do I need to attach any particular documentation along with the Form 6? Do I need to show anything other than the approved Form 6 to U.S. Customs when I enter the United States?

A. Yes. When you file your Form 6 application, you must provide ATF with appropriate documentation demonstrating you fall within an exception to the nonimmigrant alien prohibition, such as a valid State hunting license/permit or an invitation to attend a qualifying target shooting competition or sports or hunting trade show. When you enter the United States, you must show Customs both your approved Form 6 permit and appropriate documentation demonstrating you fall within an exception to the nonimmigrant alien prohibition.

17. I'm a nonimmigrant alien. I provided ATF with a copy of a hunting license when I filed my Form 6 import application. Can I provide Customs with a copy of the same hunting license when I enter the United States?

A. It depends. If the hunting license is still valid (meaning it has not expired) at the time you enter the United States, you may present Customs with a copy of the same license. However, if the hunting license has expired, you must get a new hunting license to present to Customs, or Customs will not allow you to import the firearm or ammunition. Please note, you must have a valid hunting license the entire time you possess firearms or ammunition in the United States or your possession will be illegal.

18. Q. How long does it usually take for ATF to approve a Form 6?

A. Six to twelve weeks.

19. Q. Can I list more than one firearm on each Form 6? Can I also show ammunition on the same form?

A. You may list more than one firearm on a Form 6 and may include ammunition on the same form.

20. Q. I am a nonimmigrant alien who wants to bring firearms into the U.S. for a hunting trip. Can I fill out and submit the Form 6 myself? Or must I have a Federal firearms licensee complete it and submit it for me?

A. You may complete the form yourself and submit it yourself.

21. Q. I am a Canadian citizen, live in Canada (Windsor, Ontario), and come across the United States border to the Detroit area once a month for competitive match shooting. Can I file several import permit applications at the same time, get them approved, and then use them one at a time when I enter the U.S.?

A. Yes.

22. I am a nonimmigrant alien temporarily importing firearms to go hunting in the United States. I have obtained an approved Form 6 import permit from ATF. Someone mentioned that I have to give Customs both the approved Form 6 permit and something called "ATF Form 6A", with Part 1 of the 6A completed. I was told Customs will not allow me to import my firearms until it does a "certificate of release" on the Form 6A. Is this correct?

A. No. Because you are only importing the firearms temporarily, you do not need to complete ATF Form 6A. Customs has been informed that nonimmigrant aliens temporarily importing firearms and ammunition do not need to complete this form.

23. Q. If I import a firearm temporarily for hunting or match shooting, do I have to take it out of the United States at all? My brother-in-law is a United States citizen and a U.S. resident. Can I just import the firearm, but leave it in the United States with him until I come back to the U.S. and need the gun again?

A. You may not leave the firearm with your brother-in-law. The regulations only allow you to temporarily import firearms - by regulation, you must take the firearms you import back out with you when you complete your sporting activity. In fact, the import permit you receive will have a stamp on it stating that the firearm must be taken out of the United States at the conclusion of the hunting or sporting event. Leaving the firearm in the United States will result in an unlawful importation.

24. Q. If I can't leave the gun with a friend or relative here who is not prohibited from possessing firearms, could I leave it in the custody of a Federal Firearms Licensee in the United States?

A. No. Because the regulations require you to take the firearms you import back out with you when you complete the sporting activity, you cannot leave them with anyone in the United States, even a Federal firearms licensee.

25. Q. Why is the submission of a Form 6 for every importation now necessary, when the system seemed to work well enough under the old system?

A. After the events of September 11th, it was determined that national security and public safety required ATF to know when nonimmigrant aliens are bringing firearms and ammunition into the country and the numbers and types of firearms and ammunition they are bringing in. Moreover, because nonimmigrant aliens generally cannot possess firearms and ammunition in the United States, the permit process is necessary to ensure any nonimmigrant alien bringing firearms or ammunition into the country falls within an exception to the prohibition.

26. Q. I am a nonimmigrant alien. Do I need a form 6 import permit to import a muzzle loading gun that is considered an antique firearm under the Gun Control Act?

A. No. Because antique firearms are not considered firearms for purposes of the Gun Control Act, none of the import regulations apply to the importation of antique firearms. Moreover, nonimmigrant aliens may possess antique firearms, even if the alien does not fall within an exception to the nonimmigrant alien prohibition. If you are not sure if your firearm is an antique firearm as defined by the Gun Control Act, contact ATF's Firearms Technology Branch (202-927-7910).

Please note a sample Form 4473, with explanatory pop-up boxes, is on the ATF Web page.

These Qs & As will be supplemented as necessary. Please check this Web site for updates (www.atf.treas.gov).